IN THE

Supreme Court of the United States

OCTOBER TERM, 1960

NO. 291

PAUL GINSBURG, Petitioner,

v.

AMERICAN BAR ASSOCIATION, an Unincorporated Association, JOSEPH D. STECHER, GEORGE B. CHRISTENSEN, THOMAS A. REYNOLDS, JAMES D. HEAD, and WINSTON, STRAWN, SMITH & PATTERSON, a Partnership, Respondents.

PETITION FOR REHEARING

On Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit.

To the Honorable, the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

The petition for rehearing of Paul Ginsburg, petitioner in the above entitled cause, respectfully represents:

1. On October 10, 1960, upon consideration of the Petition for Writ of Certiorari, respondents' Answers

thereto, and Petitioner's Reply Brief, this Honorable Court denied the petition.

2. On October 31, 1960, Mr. Justice Clark entered an Order extending the time for filing a Petition for Rehearing to and including December 5th, 1960, in order to allow time for this Court's disposition of your petitioner's Motion for Remand, the granting of which motion would obviate the need for presenting a Petition for Rehearing.

3. On November 28, 1960, no disposition of the Motion to Remand having been made, Mr. Justice Clark entered an Order further extending the time for filing this Petition for Rehearing to and including January 4th, 1961.

4. On December 5, 1960, this Honorable Court entered an Order denying the Motion to Remand.

5. This Honorable Court, through its said denial of petitioner's Motion to Remand, seems to have given its sanction to the affirmance of District Judge LaBuy's decrees discriminatorily or arbitrarily depriving your petitioner of his right to a day in Court and to be heard in advance of judgment, by (a) entering such decrees on an *ex parte* basis in chambers without consideration of the entire record, (b) rendering such decrees in advance of the date set for argument and formal presentation of the pleadings without Notice to your petitioner, and (c) failing, of course, to accompany such decrees with a supporting Opinion. *It is respectfully submitted that this Honorable Court would not sanction such reprehensible irregularities and illegalities, but nevertheless that is the interpretation repeatedly put upon such*

denials by members of the Bench and Bar as well as the public. This Honorable Court, therefore, should dispel such dangerous misconceptions through a rehearing of this cause. Otherwise, the result could be undue encouragement to the Judges of the Courts below to continue such unauthorized and unconstitutional practices, and to other United States Judges from coast to coast to indulge in them.

6. This Honorable Court, through its denial of certiorari herein, has exercised its discretion not to review judgments which (judgments) obviously enter conflicts with decisions of the instant and other Circuits as well as with applicable decisions of this Court, resulting in deprivations of the right to due process of law and other rights "guaranteed" by the Constitution of the United States. Accordingly, nobody learned in the law would make the asseveration that such an exercise of discretion is sound or judicial; and that is a most unfair position in which to place the Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States, because they have repeatedly protested that the denial of certiorari does not imply approval of the judgment sought to be reviewed or of its supporting Opinion. Nonetheless, just as often, members of the Bench and Bar (as well as the public) have taken such denials to imply approval of illegal, unconstitutional judgments and also not only their supporting Opinions but the "right" of District Court Judges not to accompany their judgments with supporting Opinions; doubtless much to the chagrin of this Court. That predicament should leave this Honorable Court no alternative but to resolve all popularly misconceived doubts

about its exercise of sound judicial discretion through the rehearing herein sought.

7. It is a matter of record herein that the respondents have made a sham of the Canons of Professional Ethics and the Canons of Judicial Ethics of the respondent, American Bar Association, which Canons have been adopted by the United States Courts. It is respectfully submitted that the Bench and Bar, as well as the public, have the facts on this point, not mere implications. It would necessarily follow that this Honorable Court should exercise its power of supervision herein, Paragraph 1(b) of Rule 19, because the Court of Appeals has so far departed from the accepted and usual course of judicial proceedings and so far sanctioned such a departure by the District Court as to call for an exercise of this Court's power of supervision. One good result flowing from such exercise would be a restoration of much of the lost confidence in the legal profession, as well as a retarding if not a stoppage of the "breakdown in the administration of justice" of which Mr. Justice Clark openly expressed his concern to the respondent, American Bar Association.

CONCLUSION

The record before this Honorable Court fully supports the averments of this Petition for Rehearing. The record makes it plain that this cause is one of importance not only to your petitioner, but also to the public. The arguments hereinabove make it manifest that in addition to this cause being of importance to the public and to your petitioner, it is of utmost importance to this Honorable Court and to the lower Courts of the United States. This petition, therefore, should be granted not only in the public interest and in the interest of justice, but also in the interest of honor in the Federal System.

Respectfully submitted,

PAUL GINSBURG,
Counsel for Petitioner
Carlton House
550 Grant Street
Pittsburgh 19, Pennsylvania

Dated: 30 December, 1960.

CERTIFICATE OF COUNSEL

I hereby certify that the foregoing Petition for Rehearing is presented in good faith and not for delay, and that it is restricted to grounds specified in paragraph 2 of Rule 58.

PAUL GINSBURG
Counsel for Petitioner